

# QUID NOVI

*McGill University, Faculty of Law*  
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# WELCOME BACK





# QUID NOVI

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# IN THIS ISSUE...

- 3... The Sunshine Article
- 4.... How to Publish Without Even Trying
- 6.... Unpacking "Diversity"  
Man of Steel
- 8... Dear Lord Denning
- 9... Les aventures du Capitaine Corporate America
- 11.... Connections
- 13... Great Cross-Examinations
- 14... I Am Mother Theresa
- 15... 'tis the Time for Mooting Advice

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# EDITORIAL

Short on time and energy after a long week's rest the Quid staff would like to prolong the "Spring" Vacation as long as possible and challenge all Quid readers to write in stories that have absolutely nothing to do with the law, law school, careers day, un-career choices or anything that contains the word "theory".

Let us know about you, what you like, what you don't like about the state of the world, your finances, your fitness, your love life, your new favourite movie or band - you get the picture.

So please accept our challenge and inundate our newly converted exchange-server inbox with your thoughts, opinions and rants about life before, after and outside of the law.

Happy typing,

The Quid.



# THE SUNSHINE ARTICLE

Alison Glaser, Law I

Back in the day, you would never ever catch me going to the gym. There was just no way in hell you would find me spending money to get exhausted and feel weak and stupid and have all these strangers look at me and criticise my squats. Then my best friend went into medicine and I never got to see her anymore. She decided that it would be great if we had a weekly gym date, which would guarantee us some time together. Grudgingly I agreed but only after she told me that it was only \$15 a semester to go to the McGill gym. I figured for that price, even if I gave up a week or two into it, I wouldn't lose much. Now, I won't lie to you, I didn't go to the gym and have the epiphany (a la "where have you been all my life?") and it was difficult to motivate myself after a long day at school. However, my best friend is a wonderful person and I really wanted to see her. And it really wasn't so bad (although this may have been partly due to the fact that our workout routine was 1/3 work out and 2/3 gossip, but never mind). So I got converted. I became a gym lover.

My love affair ended swiftly when I moved to Britain (you could buy a house in Canada for what they charge for gym membership over there) but it started back up again when I got back to McGill. I now go four mornings a week before class. This is not due to any super human feat of will power, but rather that I can get a lift from my husband if I go that early. Like my best

friend, lifts are a good motivator. Now, I really like it. I find I get a nice little burst of energy at the beginning of my day, I sleep really well at night, I have been sick much less often than before, and I don't have an asthma attack if I have to run half a block for the bus. I am not alone in this feeling. I set about asking some regular gym-goers at the faculty why they like going to the gym. I would like to say that I got a slew of interesting responses, but I actually didn't hear back from most people (you know who you are) because of lame excuses like "I need to write my factum" or some such nonsense. However, I did get a great response from Kyle Gervais who said:

"Well, I go to the gym today because it is my drug. If I don't make it to the gym I get antsy, have difficulty sleeping, I suffer back pain, and I generally feel blah. Going to the gym (when it opens at 6:30 in the morning) wakes me up, helps me concentrate, feel better about myself, and stay awake in class.

I go to the gym early so I can do my own shit, go through my routine, without having other people around. Also there is the added benefit of becoming familiar with those who go at the same time, a camaraderie that develops. You and the other addicts going for a fix.

If I don't go to the gym, running is the second option. Nothing is better than going for a run in early spring with a

good running partner. There are side effects though to this physical fitness, random people slapping my ass (Ali interjection: this *never* happens to me!!!), better posture, more strength and endurance and not being killed on a rugby pitch."

I couldn't have said it better myself (which is why I didn't). The point of this long winded love song to the gym is that, I think, as students we tend to put our physical health low down on our priority lists. This is a big mistake. The biggest killer among both men and women these days is heart disease, and regular exercise can help prevent that. One of the biggest causes of illness of all kinds is stress. We've got a lot of stress, and sitting around in the library is not so good for getting our hearts pumping and happy. Regular physical activity can improve your mood and the way you feel about yourself.

Researchers have also found that exercise is likely to reduce depression and anxiety and help you to manage stress better. Not to mention that exercise helps prevent osteoporosis, high blood pressure, diabetes, and back pain. So seriously, next time when you think you don't have time to hit the gym for an hour because you have too much reading to do (and I am guilty of this too, so I'm talking as much to myself as everyone else), think again. A bit of exercise will get your blood flowing, your brain working, and your self ready to hit whatever challenges come to you that day. Bring on exams, baby!

Caveat: ok, rereading this article, I find it a little rah rah, even for me, so I feel the need to throw in a warning about

disadvantages of the gym, which I will illustrate through a little story. So the other day I go to the gym and I decide to try the treadmill. Why, I don't know. I have been happily using the ellipticals since September, but for whatever stupid reason I decide to change my routine up a bit. Anyway, I get on the treadmill, set the setting thing to what I assume to be an appropriate level, and then go to it. Very quickly I discover that a level that is fine to do on the elliptical is WAY too hard core for me on the treadmill, so I turn the speed down. However, the stupid machine for some reason does not seem to understand that I am running my brains out and keeps bringing the speed back up! Well, after a few minutes of this I give up and decide to just go with it. So I close my eyes and try and get in the zone. This works for me and for a while all is going well. Then I really decide to get into it and take my hands off of the handlebars to really pump like the pros do when they run, you know? Well, of course, next thing I know I am on the ground having flown right off of the damn machine. I looked around to see if anyone else had noticed and then sheepishly got back on. Moral of the story: don't be a moron at the gym. ■



# HOW TO PUBLISH WITHOUT EVEN TRYING

by Prof. William Tetley

**P**ublishing is an integral part of the life of an academic who must on occasion face the unfortunate, but usually rare machinations of publishers. My first book was published by Sweet and Maxwell (Canada) and as a first time author in 1963, I signed their contract on a take-it-or-leave-it basis. The royalties were to be 10% of sales, but the Canadian company sold most of the production for half price to its London head office, Sweet & Maxwell (UK) who then made the majority of the book's sales (i.e. all sales in the world, except for Canada). The Canadian company considered the bulk sale to its UK parent as a sale under our contract and in effect paid me 10% of the half price, thus in effect paying me 5%. I protested in vain.

On my next book, this time with Butterworths (Canada), I covered such matters in the contract, but they seemed to be paying a very low royalty, so I spoke to the Canadian president, who calculated that I was owed about \$6500 over the past five years. We settled for that sum, subject to acceptance by the Butterworth's head office in London. The head office refused to pay anything and so a Toronto lawyer read the file and was so angry that he said he would take on the case without fee. He sued just before the last day for suit and Butterworths filed an appearance and tendered \$10,000 into court, in order to avoid further court costs. The lawyer wanted me to settle, but I was interested in having an

accountant go over their books, so I insisted that they file their defence. In due course, the defence was filed with a tender of \$13,500. We accepted the offer and my lawyer charged me \$3,500.00, which was well worth it.

On a subsequent book, I went to Yvon Blais of Montreal, who is a superb law book publisher. At that time, his sales were for the most part in Canada and he was concerned about the sales outside North America. We therefore planned to offer the non-North American publication to either Lloyd's of London Press in London or to Butterworths in London. A letter was prepared for each of the firms and I added: "Don't put the Lloyd's letter in the Butterworths envelope and the Butterworths letter in the Lloyd's envelope".

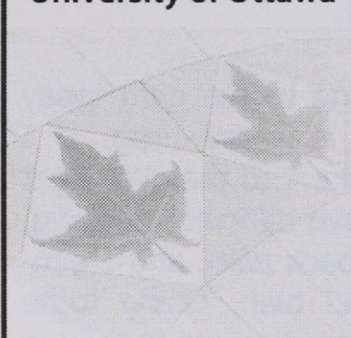
Yvon Blais and I flew separately to London and when I arrived at my hotel, he telephoned to advise that he had "bad news and bad news". The first news was that Lloyd's had already sent a fax to Montreal saying they weren't interested in the book and had cancelled the interview. The other news was that the Lloyd's letter had been put in the Butterworths' envelope and they had decided not to see us. Actually, I was not disappointed. Friends from all around the world, gave me the names and addresses of all the maritime lawyers in 50 countries in the world and Blais was easily able to sell the book. Later, Lloyd's wanted to buy our list of addresses. (They had originally wanted to sell their list at \$2.00 per name.)

A year later, Butterworths had a change of heart and bought 1,500 copies of the book at a premium with a single payment, and Yvon Blais bought a condominium in the West Indies.

The worst nightmare of an author is the bankruptcy or failure of the publisher. Years ago, a very accomplished English friend of mine left Lloyd's of London Press where he was Publisher and Editor to start his own publishing house and wanted to publish my next book to give him a kick-start. I asked myself "What are friends for?" and so I complied. He completed the printing, but unfortunately had a heart attack and despite the terms of our contract sold the complete edition to giant Dutch publisher, Kluwer, who placed it in a warehouse. I

could not get Kluwer to take any interest in selling the book and so I went to London to see their lawyers Messrs Clifford Chance who had over 700 lawyers at the time. I was escorted into a very large board room by two distinguished senior solicitors, who were just about to open the file when they were called away and I was sent to a smaller boardroom where a single solicitor met me but he was immediately called away as well. Finally in a small office a junior lawyer quickly read the file, closed it with a bang and said "We defend". Eventually, I hired a London solicitor, we obtained possession of 1,500 copies which my wife and I sold around the world. We even did a reprint with Blais and sold another 1,500 copies. ■

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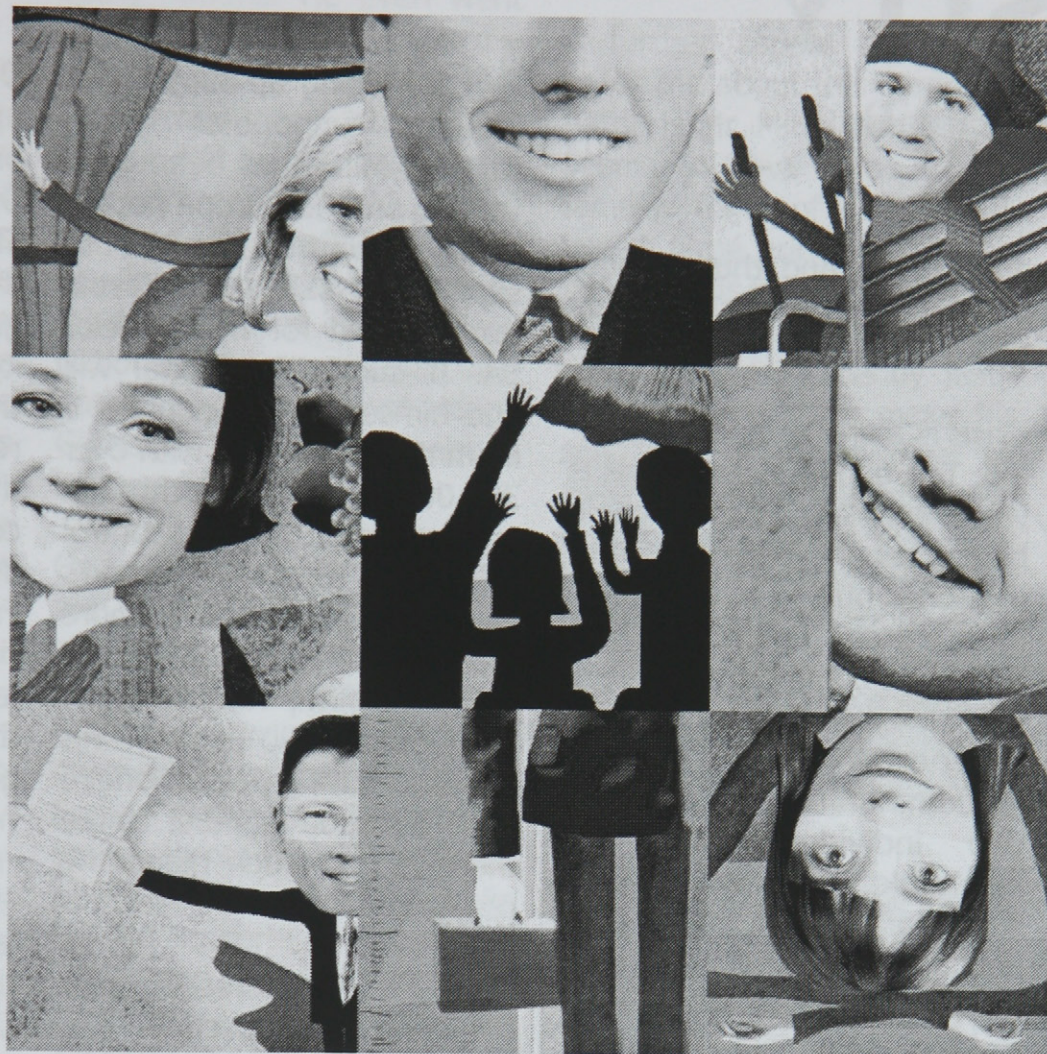


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# UNPACKING “DIVERSITY”

by **Lindsay Tina Cheong (Law I),**  
*Radical Law Community*

**S**truck with astonishment at how the word “race” and “culture” consume one another in conversations about diversity in schools. Or worse, how culture becomes the dominant articulation of a commitment to diversity in school. Where does this leave the issue of racism? Or has this word become so completely taboo that we have spoken it out of existence?

This conversation opens up a whole slew of issues within the framework of our school: a tertiary, professional, prestigious educational institution. The admissions process is one battle field: do we treat people as individuals (“radically subjectively”) or do we commit ourselves to a quota system that “limits our ability to see people for what they really are” and fill spaces based on skin colour, religious affiliations, gender, sexual preference, disabilities...?

Is this an article about affirmative action? Yes and no. I believe in affirmative action, but not only because we live in a world where ascriptive characteristics have either been/continue to be the basis of systematic exclusion and subordination or the source of de facto exclusion and subordination. So what is left in an argument for affirmative action then? In a place (supposedly) of learning, rigorous

questioning and thus identity crisis, why is diversity important?

*Crisis* is a crucial part of learning. The experience of crisis is what enables us to become better people, better communicators, but first and foremost better listeners. The best and most common example is one pulled from our collective experience as lovers. Miscommunication between two individuals may be inevitable, but we always strive for more, a better connection, a more fulfilling experience. We strive relentlessly to learn about our significant Other and in the process, ourselves.

*Difference* is a relentless site of learning. Difference induces crisis, difference unhinges your world, difference destabilizes assumptions and stereotypes on all sides. An encounter with difference in school may force us to listen to an Other that we may never have to listen to again. Learning and understanding something is so fundamentally dependent upon all of these processes that I don’t see how we could ever learn about the effects of legal writing and the law on different groups of people in our community and our position/complicity in these effects without diversity in the classroom. Do you? ■

# MAN OF STEEL

**Roman Picherack (Law I)**

**L**ike a seasoned diplomat drumming up support for an unpopular war, Lakshmi Mittal has been gallivanting around Europe hoping to convince governments to support his \$23 billion hostile takeover bid for rival Arcelor SA. If successful, Mittal will find himself at the reins of a mammoth steel firm with over 300,000 employees throughout the world. He will control more than 10% of the world’s steel market, which is more than three times that of the next rival firm, Nippon Steel. This could help him in his drive up the Forbes Billionaire List. At spot number three there is not much higher he can go.

Mittal’s bid is interesting from a number of perspectives. It is a classic clash of large industrial titans with underlying conflicts of national identity and protectionism. Arcelor, one of few truly Pan-European successful corporate stories with a large and important workforce in France, Belgium, Spain and Luxembourg stands to be swallowed by a young firm with origins in India but which is now based in the UK. This is a bit of a coming of age of Indian industry and an eclipse of Continental European industrial might. More importantly for the law student, the reaction surrounding this bid highlights some contemporary debates in corporate governance, takeover regulation, competition law and policy, and international trade and investment. It also reflects the continuing and mounting tension between the EU commission and EU member states over regulating the single market.

Of course, the French are upset with Mittal’s surprise bid. French tough guys Dominique de Villepin and Thierry Breton quickly fired up the rhetoric saying that their government has a responsibility to check the validity of the transaction. A hostile bid requires a hostile response they cried. They are especially concerned about the fate of 30,000 Arcelor employees in France alone. They may be right to be concerned, yet legally there seems to be little that they can do. The French government is not a shareholder of Arcelor.

More importantly, competition law is now exclusively within the powers of the EU Commission which favours market centered economic considerations. EU Trade Commissioner Peter Mandelson has reiterated that the Commission will not be carried away by emotions of economic nationalism and defense of vested interests. Neelie Kross, EU Commissioner for Competition, affirms that mergers and takeovers can only be questioned on competition grounds and the Commission will only intervene if there is an adverse impact on effective competition within the single market. While Mittal will secure 10% of the world’s steel production with this transaction, competition lawyers confidently affirm that this is not enough to allow the Commission to block the takeover. In the EU, the role of the state in competition matters seems a thing of the past. Perhaps France and other continental govern-

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ments did not realize that the EU Commission's policies did not completely line up with their own socialist and protectionist swings.

The determined French government has another strategy. It has been trying to convince the government of Luxembourg, which owns 5.6% of Arcelor and is the largest shareholder, to vote against the bid. France seems to have found a sympathetic ear. Luxembourg has stated its intentions to reject the bid, though the bid could still go through with enough support of Arcelor's other shareholders.

More significantly, however, Arcelor is incorporated in Luxembourg. On February 7<sup>th</sup>, the government of Luxembourg proposed a law that would allow directors to adopt defenses to hostile takeovers, such as poison pills, without prior consent of an extraordinary general shareholder assembly. Clearly this proposed law is aimed at helping Arcelor defend against Mittal's voracious appetite. Should this law pass, and should it enable Arcelor to successfully defend itself, Mittal will not be a happy capitalist. He will probably try to challenge the law, claiming that Luxembourg is acting outside its jurisdiction. The government of Luxembourg for its part affirms that the law is in line with Article 9 of the EU Takeover Directive.

To escalate matters even further, the Government of India has decided to weigh into the fray, announcing on February 15<sup>th</sup> that any move to block the bid could negatively impact future EU-India trade talks. Indian Trade Minister Kamal Nath accused European governments of backtracking

on the principal of national treatment, an accusation most often used by Western industrialized nations against developing nations. He even went so far as to drop the D word – discrimination – stating that hostile takeovers "should not be decided by the colour of a passport or the colour of a person." This reflects India's newfound confidence in meeting the Western industrialized nations head on at their own game. In the words of Happy Gilmour, "Uh-Oh, somebody learned how to put."

One question that interests me is why doesn't labour, as an important stakeholder, have a more formal role in the takeover process. Indeed, much of the concern voiced by France and other continental governments with Mittal's proposed acquisition seems to lie in the uncertain future the deal could mean for many of Arcelor's present workers. Traditionally, labour has been well represented in continental European corporate governance models, which is to be contrasted with the UK / North American models that focus exclusively on the interests of shareholders. The continental model is perhaps best reflected in the mantra of Windelin Wiedeking, super-boss of German super-company, Porsche: "Customers first, then the workforce, then shareholders." Yet when it comes to takeovers, even in Europe, labour and other stakeholder interests take a back seat. Actually, they aren't even allowed in the car. Deals like this are decided almost solely by shareholders. The principle concern is whether the acquiring firm is offering a fair premium for the target shareholder's shares. But if takeovers of this size are able to create so much concern about the future of stakehold-

ers other than shareholders, then what role, if any, should we give these other stakeholders in the process?

A further aspect that fascinates me about this corporate battle is Mr. Mittal himself. He seems to have some of the familiar traits of a super-villain. A large grin comes to his face and his eyes glaze over at the simple mention of the word steel. He recently justified his decision to make his son CFO of Mittal Steel by asserting simply that his son is a pure genius. He knows how to grease the palms. Not long ago, he gave the Labour Party £2 million after Prime Minister Tony Blair sent a nice letter in support of his bid to acquire a state owned Romanian steel firm.

Mr. Mittal is extremely smart and strategic. He has his eye on the current trends in corporate social responsibility. He knows that it is in his interest to convey concern for the long-term welfare and interests of all of Arcelor's stakeholders. He is telling everyone who will listen that he is ready to honour Arcelor's social commitments and will not axe workers in Europe. In the analyst presentation of the offer, part of his rationale for the transaction is, in his own title, "Taking Sustainability to a New Dimension". This means "making sustainability the foundation of the roughly 320,000 person organization and involves a commitment to best practices in health and safety, social responsibility, environment and cultural diversity." This all sounds really nice and it is Mittal's hope that he will placate the concerns of governments, communities and labour alike with these commitments. So far, the old guard in Europe has not been swayed.

As the Dude would say, there are a lot of interested parties, ins and outs, whatnots and what-have-yous with this bid. I promise you this battle will go on for a good while and will intensify. Given the realization that EU member states are largely powerless to stop large takeovers that threaten perceived national interests, this transaction could serve as a catalyst for reform proposals over company and competition law in the EU. For the law student interested in matters of corporate governance and competition law, this is a great transaction to keep your eye on. ■

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# DEAR LORD DENNING: Your Academic and Career Questions Answered

*This Week: How to save the situation when failing Contracts*

*Dear Lord Denning, I need help. I almost failed my December exams in first-year Contracts. I thought I would do well. I really like this course but I am lost. Where can I get extra help? Are there any study strategies that might help me do better in April? I'm afraid that the camel's nose is in the proverbial tent.*

*Yours,  
A mere puff*

Dear Puffing Student

I encourage you to carry on with your study of contracts – a particularly rewarding field, but I doubt my capacity to offer substantive advice. I am a bit skeptical about how useful “advice” (as opposed to, say, encouragement) can be in such cases.

The first and perhaps most important thing I want to say is that if it is only your Contracts mark that you are concerned about, i.e. you are generally satisfied with your other marks or at least with most of them, then you probably should not worry about this mark or worry about trying to do anything different.

If your marks are generally okay, then you have the ability and work ethic necessary to do well in law courses. The fact that you did worse than expected in this course probably reflects nothing more than the law of statistics: in any activity (tennis, chess, exams, etc) you will sometimes have a bad day: maybe because of something you ate, maybe because the one thing that you did not study or were away from class for the day it

was taught happened by fluke to be the one thing the professor focused upon, maybe because you got a bad night's sleep, or maybe there is just something about your writing style that grates on the particular professor.

Most of these things are just as likely to happen in courses that you like as courses you do not like, and most are unlikely to reproduce themselves. Admittedly, some might be systemic, i.e., that despite your best efforts your “style” and the prof's “style” clash, but I don't know how one could ever determine this except by taking a number of courses from the same prof. (So one piece of advice, if marks are your concern, might be to not take the same prof again if the pattern repeats.)

Explaining that you should try to write the kind of answer you think this prof would like is not very helpful since everyone already knows that. More generally, my teaching colleagues have informed me that over their many years of experience, their students' overall averages are almost always about what I think they should be; that is to say, their overall averages are a fair reflection of the kinds of “abilities” and “work habits” that law faculties test (which of course are only a limited aspect of our abilities and work habits). But—and this is the big but—individual marks are much more random. Students often do best in the subject they like least (and which they feel they understand least), and vice versa. For example, my worst mark

in first year was in Contracts and best in Civil Procedure, which I hated! Again, I think this is in part just the law of averages. Who can explain why a batter gets four hits one day and none the next? We accept this as normal in cricket. What we care about is the overall average. If marks are your concern, then the same applies to them.

On the other hand, if one is generally unsatisfied with all or most of one's marks that is another matter. Unfortunately, I am not sure I can be very helpful here either. My experience suggests there are basically two reasons that some students do better than others: they work harder (or more consistently, or in a more focused way, or with fewer distractions, etc.) or they are “smarter” (in the limited sense of “smart” that is tested in law courses). Of course, there are lots of tools, techniques, tricks, study habits, etc. that can help you to learn better and perform better on exams. But these are all pretty well-known (and which one works best for you is an individual matter).

Of course not everyone has the ability to use these techniques properly (none of them are mere mechanical tricks) or the dedication needed to use them sufficiently regularly and sufficiently seriously. But this ability and/or dedication is not something that can be taught. As you know, law faculty exams are not like spelling bees or a sixth grade memory tests that one can ace by learning a few tricks from someone else. I am not saying that students do not improve, learn new techniques, etc.; it is just to say that learning techniques, etc. is part of the process of learning generally. If you have the ability and the

work ethic necessary to do well, but you did badly in first term the reason is probably just that you have not adjusted to the expectations required of you in law school.

The single most useful “tip” that (many) students learn after receiving their first term marks is that the approach to studying that they used before is not going to give them the same grades in law that they got before. For those students with the ability and work ethic necessary to achieve better results, this is all the “advice” they typically need. They have been given a wake-up call and they respond to it by working in a harder and more focused way. Of course, they may use various new ‘techniques’ and approaches, but none of these are difficult to figure out for someone who has made it to this faculty. More generally, while it may not be easy to make one's self smarter, it is definitely possible to improve one's study habits. Aside from the rare genius amongst us, the students who do well tend to have very rigorous, organized, study habits. But I don't think that I am an expert on study habits.

In any event, what I would say here is the same thing that students have been told all their lives: read your materials, got to class, study in a quiet area, be focused, get lots of sleep, test yourself constantly as you are studying/reading, etc. etc. Most of us know these things; it is practicing them that is difficult. And surely, there are other things to do in life.

*Sincerely*

*Lord Denning*





**Questions for next letter:****The Missing Blackett Report**

Dear Lord Denning:

As a member of the first year class, I find that I have to take things as they come. The situation and environment that I walked into on September 1<sup>st</sup> was in no way controlled by my thoughts, actions, or criticisms. That has changed since then, or at least idealistically I'd like to think that my fellow first-years and the rest of the faculty have impacted it's environment since. However, there is a lot of misunderstanding, misinformation, and just plain ignorance about the developments that have occurred in the Faculty's history.

One such development was the release of the Blackett

Report on McGill's grading, evaluation and other policies. My classmates and I can't find it anywhere. After discussion with others I think it would be useful to know the comments that were made in this report. So Lord Denning, where is the Blackett report? Would you entertain us with your amazing prose and fill us in?

Eric Boschetti

**Help us improve Legal Meth!**

Dear Lord Denning

Why does legal Methodology suck so badly? Why is it that most of the pass/fail assignments have mistakes that are only fixed the day before the assignment is due? Why is it that the course was out of 140%? Why is it that they changed the grading scheme mid-way through the year without even

telling anyone? Why is it that we are given such minimal guidance (read useless) before an assignment is given? Why is it that I still don't know how to write a statute? Why is it that my friends in 3<sup>rd</sup> and 4<sup>th</sup> year make fun of me when I tell them the class comprises of more than just tutorial sessions and that I actually have a textbook? Better yet, why did I pay \$27 for a textbook when halfway through the year we no longer used it? What is Me Boyer's job except for moving the mouse around when Me Lamed talks? Why do I waste so much time complaining about this course, which is clearly designed as a time waster?

Why does Legal Methodology suck so badly?

Each year the first-year class complains about Legal Meth., and to quote my friends in 3<sup>rd</sup>

and 4<sup>th</sup> year it sounds like the course is getting worse, and not better?

I understand the need for the school to teach us how to use the databases, and for them to mark us on it so there is at least some motivation to try. However, as it stands now Legal Meth. is a big waste of time. I have heard numerous solutions on how to "fix" the problem; I can only hope McGill listens. I am sure I am not the first to complain, and I am positive I won't be the last.

Kindly respond,

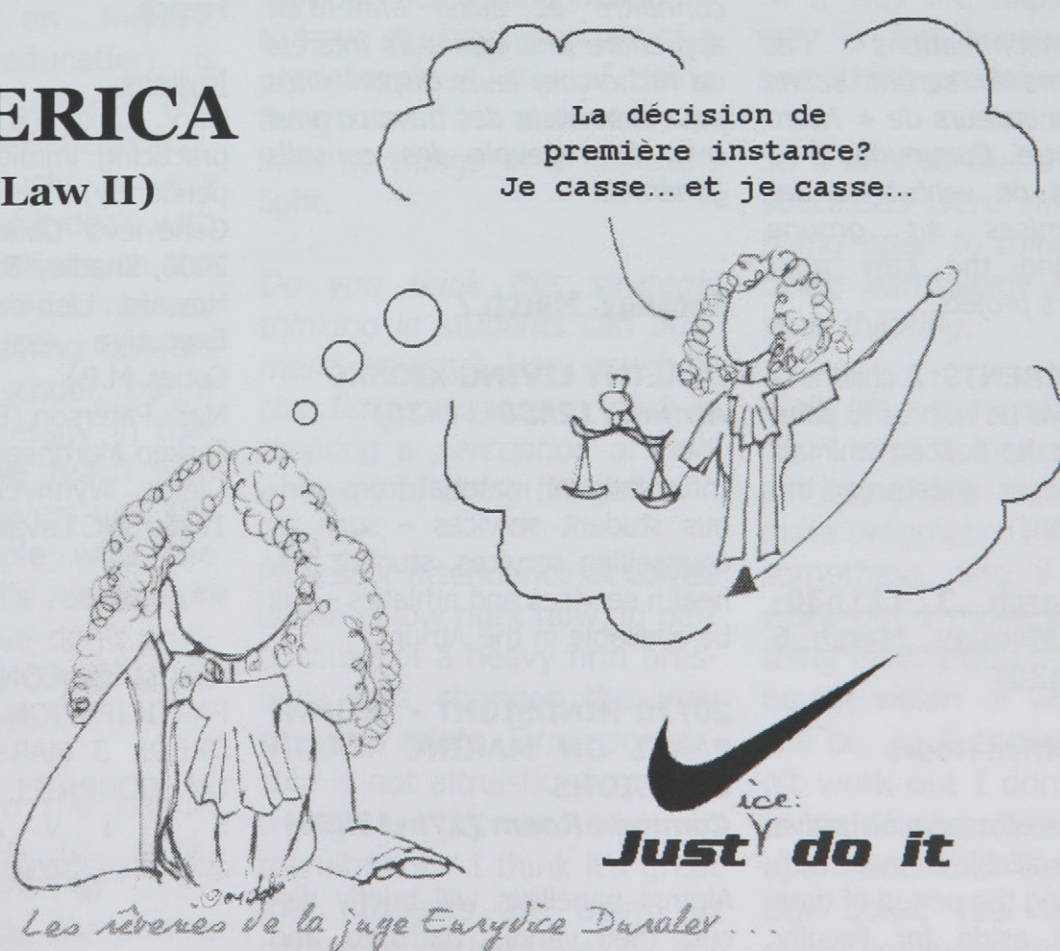
Frustrated and Confused First-Year

**Feel free to write in and help Lord Denning along. Questions and answers can be sent to [deardenning@yahoo.ca](mailto:deardenning@yahoo.ca).**

# LES AVENTURES DU CAPITAINE CORPORATE AMERICA

par Laurence Bich-Carriere (Law II)

« Justice  
de Nice. »





# Notre Faculté, Notre Communauté Our Faculty, Our Community

March 2-8, 2006

The Faculty of Law is pleased to present "Our Faculty, Our Community" – a series of activities that aim to generate a meaningful dialogue amongst and between all members of the law faculty community. Organizers have tried to set up a range of frameworks – social events, group presentation/interaction, and one-on-one – in which discussions about legal education, pedagogy, professional development, and general community life can take place in a frank and constructive manner.

*Nous espérons que ces activités stimuleront les échanges à travers notre communauté sur comment se vivent les études à la Faculté... que se soit par les étudiants, les professeurs ou encore le personnel de soutien. Tout le monde est fortement encouragé à partager idées, préoccupations et recommandations dans le cadre des divers ateliers « Notre Faculté, notre communauté ».*

## Thursday, March 2

**Community Coffee House** -  
Co-sponsored with Disability & the Law

**Atrium (16h30-19h)**

Faculty, staff and students are invited to attend coffee house, and are encouraged to invite their partners, housemates, and children. Everyone is welcome!

*Des consommations et rafraîchissements seront servis par les organisateurs de « Notre Faculté, Notre Communauté ». Les recettes de ventes du bar seront remises au groupe Disability and the Law pour appuyer leurs projets.*

**NOTE TO PARENTS:** A children's entertainer will be with us to paint faces and make balloon animals for our younger guests (or the young at heart!).

**Friday, March 3 (11h30-13h30) & Monday, March 6 (12h30-13h30)**

## Universal Office Hours

Faculty and senior administrative staff will be available to meet with students during the period of time normally set aside for Faculty Council meetings (Friday, March 3, 11h30 – 13h30 as well as on

Monday, March 6, 12h30 -13h30). This should ensure maximum participation from professors and administrators. Professors are invited to offer office hours on either of the two days, but are more than welcome to do so on both days.

*Voici une excellente occasion pour les étudiants de rencontrer les professeurs, de mieux les connaître et aussi afin d'en apprendre plus sur leurs intérêts de recherche, leurs disponibilités pour superviser des travaux, ainsi que de recevoir des conseils généraux.*

## Tuesday, March 7

**HEALTHY LIVING KIOSKS**  
**Atrium (12h30-14h30)**

Informational material from various student services – such as counselling services, student aid, health services and athletics – will be available in the Atrium.

**20/20 HINDSIGHT - ALUMNI PANEL ON MAKING TOUGH DECISIONS**

**Common Room (17h-18h30)**

Alumni panellists will briefly discuss their various paths to, and through, law school and the legal profession. Their perspectives

These events are but a first step in the faculty community's effort to understand and address the multiple factors that shape the law school environment. These events will not address all issues, but it is hoped that "Our Faculty, Our Community" will provide ample opportunities for members of this community to establish contact and foster meaningful relationships. We wish participants to be proactive in their participation and provide constructive feedback on how our community can better address any deeper, systemic issues that cannot be addressed in the present format.

*Ces activités sont rendues possible grâce à une subvention provenant du Fonds Mary H. Brown, qui est géré par le Bureau du doyen des Services aux étudiants.*

highlight the range of approaches that can be taken in respect of the many important (and sometimes difficult) decisions that law students make along the road to a fulfilling career. Panellists are also invited to share any advice on the kinds of "soft skills" that help them navigate the challenges they face in their professional and personal lives. Presentations and discussion will be in English and French.

## Invitees:

Gary Carot (B.C.L./LL.B. 2004, practicing immigration law independently)  
Geneviève Coutlée (B.C.L./LL.B. 2000, Shadley Battista)  
Howard Liebman (B.C.L./LL.B., Executive Assistant to Irwin Cotler, M.P.)  
Mark Paterson (B.C.L./LL.B. 2000, Fasken Martineau DuMoulin)  
Olena Wynnycky (B.C.L./LL.B. 1996, SNC Lavalin, legal counsel)

## \*\*AVIS\*\*

VEUILLEZ CONFIRMER VOTRE PARTICIPATION D'ICI LE VENDREDI, 3 MARS EN ENVOYANT UN COURRIEL À L'ADRESSE S U I V A N T E :  
[Julia.pomeroy@mail.mcgill.ca](mailto:Julia.pomeroy@mail.mcgill.ca).

## Wednesday, March 8

**FORUM ON LEGAL PEDAGOGY**  
**Room 101 (12h30-14h30)**

**Moderator:** Professor Roderick A. Macdonald

## Panellists:

Ryan Anderson (Law II)  
Professor Angela Campbell  
Professor Daniel Jutras  
Naomi Kikoler (Law III)  
Robert Sampson (Law II)  
Professor Shauna Van Praagh

Students and professors will open the discussions with questions on teaching and learning in the Faculty of Law. Topics may include: the classroom environment; other sites of learning; the role(s) of students, professors and the student-professor relationship in an educational setting; pedagogical approaches. Questions and answers may be in English and French.

All students and faculty are strongly encouraged to attend and participate in this panel. The following people may find the session particularly instructive and enlightening: tutorial leaders (past, current & future) human rights interns, legal clinic volunteers and interns, outreach facilitators graduate students considering graduate studies and academic careers.



# CONNECTIONS

## Students and Professors Get Chatty

Interview by Ryan Anderson (Law II)

Professor Saumier graciously agreed to this short interview, responding to questions as pertinent as the quality of life issue at the faculty and as personal as why she came to the law. Professor Saumier is the Associate Academic Dean at the Faculty.

*In a recent article in the New York Times titled "To Professor@University.edu Subject: Why It's All About Me", the author suggests that email access to professors has created confusion about an appropriate standard for professor/student relationships. The informality that emailing allows holds the danger of eroding student deference for professors, encouraging a sense of consumerism in students that views the university as a paid-for service. How can an institution of education deal with this challenge? How does a school create proper and predictable etiquette?*

It's hard to judge whether there is a problem or not. Many students have come from many different contexts and university experiences, and seek to continue the behavior they are used to experiencing. I can't say that I have seen a radical difference in the way students have dealt with me personally. In my role as associate dean I am surprised at the way some students have been confrontational in that they hold a belief of entitlement, and perceive me as somehow an obstacle to a goal they are seeking rather than seeing me as upholding a role that seeks to allow for equitable treatment of our

community. The tendency to couch things as claims and entitlements rather than a need or interest that should be balanced while keeping an eye to fairness of the whole is something I have noticed. And it's true that email is less formal. But I would say that no one's personal experience is indicative, and if something isn't working we need to pause and listen to see how other people are doing things and try that out.

*It seems one of the challenges for McGill (or any university) is to strike an acceptable balance between being both an academic institution of inquiry and an institution that seeks to provide vocational training. How do you feel this balance is best achieved?*

There is aspiration and then reality. Our program aspires to be centered on inquiry. Transsystemic education is totally unique in Canada and the US. It is very theoretical, but simultaneously a very practical study as it deals with how society functions on the everyday level. We do not see ourselves as training lawyers as in a trade school, but it happens by necessity in that the materials we teach with are the tools lawyers use. We familiarize people with the sources and skills required in the trade, but we don't privilege that as the objective we are trying to obtain.

*I recently heard the phrase "Ontarians live to work, Quebecers work to live." Stereotypes aside, the phrase points to the quality of life issue, and perhaps unwittingly*

*points to the fact that a lot of the way we structure our lives is cultural. The diverse student body often comments on the culture and quality of life issue at the faculty and within the study of law. How have you come to reconcile law and an acceptable quality of life?*

On a day to day basis I enjoy it and I can cope with the stresses involved. But that's just me. Many students are very driven and ambitious, and this leads them to the belief that every decision is critical and makes them feel that they can't "mess up". The McGill program hopes to show that there are many different paths and many unexpected outcomes that are satisfying. I hope to help students see that nothing is final, and there are many different models of both law and life. The admissions process is important in this. We look for students that are interested and at ease in moving between both worlds. We have many objectives here, and we try to make clear what we are about. The way we approach legal education is to have students step out of a predetermined way of doing things and think about how to look at things in a different light.

*Do you think this strategic thinking in students can augment anxiety? How much is the firm presence a part in creating a perception of only one way of doing things?*

Professor attendance at coffee house is low right now, in part because of a heavy firm presence that changes the way students relate. Firm sponsorship is not altruistic- firms are trying to get an edge in recruitment. I think it's great that students are trying to gather more information, but a heavy firm presence has

costs that need to be considered.

*So how did you come to law?*

By default, really. I was involved in management and during the 80's job prospects were looking thin, so I thought law would be a good option that would eventually lead me to a job. But what really did it was running into a friend attending law at McGill who was having a great experience that made me think, "why not?" Really it was a happy fluke.

*You didn't have a definite plan?*

I was not the kind of person that wanted to be a lawyer since 7 years old. But once I got into law I found the kind of reflection challenging and worthwhile pursuing. Coming from management I thought I would be a corporate lawyer, but after several summers in a large firm, I found graduate studies to be the most fulfilling. Of course that's just me. In a way life happening this way is fun because it's not something predetermined.

*So it sounds like a lot of your successes were linked to you being open to things and not being particularly strategic in your thinking.*

Well, it's a personality thing. I don't tend to look at decisions as being life changing. I'm quite pragmatic. I figure I'll try something, and if it doesn't work out I move onto something else. I don't have a particular vision of what my life will be, so if something doesn't work out I don't have the sense of an entire plan falling apart and that I'm a failure. But some feel that career goals are motivating and they respond to that, and this,



## QUID NOVI

again, is a personality thing. The way we approach legal education is to have students step out of a predetermined way of doing things and think about how to look at things in a different light. We tend to not look at the existing structures of law as confining, but as subjects of inquiry themselves.

*Your Ph.D. thesis focused on the impact of the continuing integration of Europe on English private law. What fascinated you about this dynamic?*

I took private international law with Prof. H.P. Glenn. I did very average in the course, but loved the subject area, and went on to Cambridge to do my doctorate in this field

that I loved. While being there I embraced the opportunity to do comparative research. There was a brand new convention, the Rome Convention on the law applicable to contractual obligations, so I went with my interests and what presented itself. Turned out that I was not only comparing the law but different legal cultures. I mostly focused on the interaction between the theoretical versus the pragmatic. It was very exciting.

### Vanities: Personal Interview Questions

*These questions were electronically submitted by the interviewer to Professor Saumier to respond in one briefly to give readers a little*

*window into her world.*

*What is your idea of perfect happiness?*

Being Content with the Present, having no regrets about the past and maintaining hope for the future.

*What is your favorite way of spending time?*

Reading.

*What book are you reading now?*

Runaway, by Alice Munro.

*What are the traits you most deplore in yourself?*

Procrastination and impatience.

*What is your favorite journey?*

Home, at the end of the day.

*If you could change one thing about your family, what would it be?*

Have them all live in the same city.

*What are the qualities you most admire in a man?*

Integrity and a sense of humor.

*What talent would you most like to have?*

Tact. ■

## **!!ANNUAL LAW STUDENT ART SHOW!!**

*Hosted by The McGill Entertainment Law Student Association*

It's time for students to strut their stuff and show their wonderful works to the world! Bring in your paintings, photographs, drawings, and any other artistic expression.

### **Spread the Word!**

How to participate: Contact Stephanie before March 10th at [stephanie.colford@sympatico.ca](mailto:stephanie.colford@sympatico.ca). Works will exhibited in the atrium.

## **!!EXPOSITION D'ART ANNUELLE DES ÉTUDIANT(E)S DE LA FACULTÉ DE DROIT!!**

Il est enfin temps que les étudiants de la faculté de droit démontrent leurs talents artistiques!!! Amenez vos peintures, photographies, dessins ou toute autre expression artistique.

Comment participer : Contactez Stéphanie en tout temps avant Vendredi le 3 mars à [stephanie.colford@sympatico.ca](mailto:stephanie.colford@sympatico.ca). L'exposition sera montée lors de la fin de semaine du 4 mars et les œuvres seront exposées lors de la semaine du 6 mars.





# GREAT CROSS-EXAMINATIONS

*These are from a book called Disorder in the American Courts, and are things people actually said in court, word for word, taken down and now published by court reporters who had the torment of staying calm while these exchanges were actually taking place.*

**ATTORNEY:** Are you sexually active?

**WITNESS:** No, I just lie there.

**ATTORNEY:** What is your date of birth?

**WITNESS:** July 18th.

**ATTORNEY:** What year?

**WITNESS:** Every year.

**ATTORNEY:** What gear were you in at the moment of the impact?

**WITNESS:** Gucci sweats and Reeboks.

**ATTORNEY:** This myasthenia gravis, does it affect your memory at all?

**WITNESS:** Yes.

**ATTORNEY:** And in what ways does it affect your memory?

**WITNESS:** I forget.

**ATTORNEY:** You forget? Can you give us an example of something you forgot?

**ATTORNEY:** How old is your son, the one living with you?

**WITNESS:** Thirty-eight or thirty-five, I can't remember which.

**ATTORNEY:** How long has he lived with you?

**WITNESS:** Forty-five years.

**ATTORNEY:** What was the first thing your husband said to you that morning?

**WITNESS:** He said, "Where

am I, Cathy?"

**ATTORNEY:** And why did that upset you?

**WITNESS:** My name is Susan.

**ATTORNEY:** Do you know if your daughter has ever been involved in voodoo?

**WITNESS:** We both do.

**ATTORNEY:** Voodoo?

**WITNESS:** We do.

**ATTORNEY:** You do?

**WITNESS:** Yes, voodoo.

**ATTORNEY:** Now doctor, isn't it true that when a person dies in his sleep, he doesn't know about it until the next morning?

**WITNESS:** Did you actually pass the bar exam?

**ATTORNEY:** The youngest son, the twenty-year-old, how old is he?

**WITNESS:** Uh, he's twenty-one..

**ATTORNEY:** Were you present when your picture was taken?

**WITNESS:** Would you repeat the question?

**ATTORNEY:** So the date of conception (of the baby) was August 8th?

**WITNESS:** Yes.

**ATTORNEY:** And what were you doing at that time?

**WITNESS:** Uh....

**ATTORNEY:** She had three children, right?

**WITNESS:** Yes.

**ATTORNEY:** How many were boys?

**WITNESS:** None.

**ATTORNEY:** Were there any girls?

**ATTORNEY:** How was your first marriage terminated?

**WITNESS:** By death.

**ATTORNEY:** And by whose death was it terminated?

**ATTORNEY:** Can you describe the individual?

**WITNESS:** He was about medium height and had a beard.

**ATTORNEY:** Was this a male or a female?

**ATTORNEY:** Is your appearance here this morning pursuant to a deposition notice which I sent to your attorney?

**WITNESS:** No, this is how I dress when I go to work.

**ATTORNEY:** Doctor, how many of your autopsies have you performed on dead people?

**WITNESS:** All my autopsies are performed on dead people.

**ATTORNEY:** ALL your responses MUST be oral, OK? What school did you go to?

**WITNESS:** Oral.

**ATTORNEY:** Do you recall the time that you examined the body?

**WITNESS:** The autopsy started around 8:30 p.m.

**ATTORNEY:** And Mr. Denton was dead at the time?

**WITNESS:** No, he was sitting on the table wondering why I was doing an autopsy on

him!

**ATTORNEY:** Are you qualified to give a urine sample?

**WITNESS:** Huh?

**ATTORNEY:** Doctor, before you performed the autopsy, did you check for a pulse?

**WITNESS:** No.

**ATTORNEY:** Did you check for blood pressure?

**WITNESS:** No.

**ATTORNEY:** Did you check for breathing?

**WITNESS:** No.

**ATTORNEY:** So, then it is possible that the patient was alive when you began the autopsy?

**WITNESS:** No.

**ATTORNEY:** How can you be so sure, Doctor?

**WITNESS:** Because his brain was sitting on my desk in a jar.

**ATTORNEY:** But could the patient have still been alive, nevertheless?

**WITNESS:** Yes, it is possible that he could have been alive and practicing law ■



# QUID NOVI I AM MOTHER THERESA . . . AND I ALSO LIKE TO RES- CUE BEACHED WHALES

By Alison Glaser, Law I

**B**efore coming to the Faculty, I was completely intimidated. The first-years had started an online discussion forum, which was great, but I felt that every person on there was much smarter than me knew way more about law than I did had done unbelievably exciting things that I could never hope to compete with.

So naturally, I had a mini breakdown. Obviously my application had gotten attached to someone else's and I got in the accepted pile by mistake. I figured I would flunk right out of Law since I knew nothing about it and everyone else was amazing. Plus, I'm not really smart anyway, all these years I have been faking it and soon, soon, *someone will figure it out.*

I have since learned that many, if not most, people who got accepted here felt the same and sometimes even continue to feel that way now. So, for your enjoyment, I thought I would present you all with the email my friend Lauren sent me that made me feel so much better. Lauren is now a Pediatric resident at St. Justines, but at the time she had not gotten her acceptance yet. I wrote to her saying that everyone in my class was crazy intimidating and this is what she wrote back:

I know what you mean about the crazy intimidating thing - it was like that when I entered med school, and then revisited when I did residency interviews. Here's a typical conversation overheard at the interviews:

Person 1: So, just after finishing my peacekeeping mission to Rwanda, I found a job working as an astronaut.

Person 2: Oh, yeah? I love space travel! Actually, just last year I invented a time machine!

Person 3: Wow! A time machine! That would have been so useful to help me out on the history textbook I wrote three years ago!

Person 1: Gee wiz! You like to write? I'm Margaret Atwood! Have you read any of my novels?

Person 2: Of course! I actually enjoy reading so much, that when I was personally breast-feeding orphans in Africa, I read every book ever written!

Person 3: I know, it's so lovely to see things through to completion. Like when I repainted the Sistine Chapel . . . it was sort of tough with me being blind and all, but I managed to get by anyways.

Person 1: I love blind people!

Person 2: Me too!

Person 3: I'm deaf too!

Person 1: I love deaf people!

Person 3: What? . . . just kidding - I can read minds - that's how I'm talking to you both.

Person 1: Oh, reading minds really does interest me. I recently published 18,000 articles on the subject.

Person 2: Yeah, isn't publication great? I particularly enjoy publishing in Science and Nature. They are just soooo sweet!

Person 3: They sure are. They write me such nice letters every time they accept my work.

Person 1: Aren't you two just

soooo swell!

Person 2: No, you two are so swell!

Person 3: No . . . you two!

Person 1,2,3: We are ALLLLLLL swell! Hooray for us!

etc . . .

So, in summary, don't worry about those crazy over-achieving nuts! To them, my super-genius-queen, you probably sound as intimidating as they seem to you. In fact, I shouldn't call them nuts, cuz I'd be referring to you!

Well, there you go. Hope that gave you all a giggle. And remember, Lauren is a wise and wonderful person, and we should all take her advice (she is a doctor after all) and relax. Everyone here is amazing and we *all* deserve to be here. ■

## Blueberry Peach Crumble Recipe

4-6 peaches

1 box of blueberries (Fresh or frozen)

1 lemon

1 teaspoon of cinnamon

1/3 to 1/2 cup of butter

1 cup brown sugar

1/2 cup flour

1/2 cup rolled oats (if you don't have rolled oats then just replace with another 1/2 cup flour)

" Peel and cut your peaches into morsels. Add them to a bowl with the blueberries. Add approximately the juice of half a lemon, the cinnamon and 1/4 cup of brown sugar. Mix well.

" In another bowl combine flour and oats and sugar and add the butter. With your hands combine it all so that it makes a crumble topping.

" Add your fruit to your pie plate (glass) and cover the fruit with the flour/oat topping. Make sure that all the fruit is well covered. Pop it in the oven at 350 for 40 minutes. Let it cool for a good half hour and then dig in. It is so simple but you will be going back to finish the dish. When I make one- it never last more than 2 days.

" Don't FORGET- you can substitute the blueberries and peach for any other combination. IN the fall apples are amazing in a crumble. Plums and nectarines are good. Mixed berries. Strawberry Rhubarb. Who knows maybe Broccoli Pear might be an original one.



# 'TIS THE TIME FOR MOOTING ADVICE

by Julien Morissette (Law II)

Reading week is done, the season of first and second year moots now begins. The memos and factums are written, it's now time for that fun and/or scary experience of oral arguments in front of a panel of judges.

J'ai eu l'occasion – assez rare pour un étudiant de deuxième année – de participer à un concours de plaidoirie : le Tribunal-école Pierre-Basile Mignault. Dans le cadre de ce concours, les facultés de droit civil québécoises (plus l'Université d'Ottawa) s'affrontent, par l'entremise de mémoires et de plaidoiries (devant de vrais juges), sur un sujet d'actualité.

Obviously, much of our work was on our specific topic (arbitration clauses in online contracts). However, I learned many things which can be transferred to almost any oral pleadings in front of a court. I decided to share ten tricks with you – hoping that they will be useful to some Quid readers.

**1. Don't fidget.** Keep your feet in one place and on the ground. Some people move around because they are nervous, unfortunately most judges find this distracting.

**2. Don't use your hands.** Put them on each side of the podium and leave them there. Using them somewhat to emphasize a point can be good, but most people tend to use them too much which is

distracting.

**3. Speak at a reasonable pace.** Speaking too fast (also a sign of stress) is one of the best ways to lose a judge, especially given that s/he will usually know way less about your topic than you will. You are not expected to give 20 minutes of content in 15 minutes.

**4. N'interrompez jamais les juges.** Les juges sont rois et maîtres du tribunal et quand ils parlent, il faut se taire. C'est non seulement faire preuve de courtoisie, mais aussi ce qu'il faut pour ne pas contrarier les juges – une très mauvaise idée!

**5. Préparez une présentation à longueur modulable.** Votre présentation doit pouvoir se faire en 15 minutes ou en 5 minutes. Identifiez les arguments clés que vous devez mentionner, car vous ne pouvez jamais prévoir à l'avance à quel point vous allez être interrompu par les juges.

**6. Imaginez les questions que l'on pourrait vous poser.** Prenez votre mémoire, cherchez les points faibles et préparez des réponses. Si la question est prévisible, on vous la posera probablement !

**7. Écoutez les questions.** Quand les juges vous posent une question, c'est parce qu'ils sont intéressés. Vous voulez répondre à leur question, car

autrement vous paraissez ne pas connaître votre sujet ou au moins ne pas accorder d'importance à leurs préoccupations.

**8. Don't go overtime.** Rehearse and time your presentation and make sure you plan at least a few minutes for questions. If for some reason you see that you are not going to make through your presentation, stick to the main points and skip to the conclusion before your time runs out. Judges may give you more time but, then again, they may not.

**9. Know your authorities.** Prepare ahead of time a small summary of cases, statutes and doctrine you will be citing. You don't want to get caught not knowing the facts of a case or the year an article was written. Especially that these questions are highly predictable...

**10. Rehearse. Rehearse. Rehearse.** I could repeat it more than three times. As for many other endeavours, practice makes perfect!

Bonne chance pour vos plaidoiries ! ■



Just  
imagine:  
We could  
all be  
pleading  
here one  
day....





## NOMINATIONS POUR LE PRIX D'EXCELLENCE EN ENSEIGNEMENT 2005-2006

À chaque année, l'AÉD présente le Prix d'Excellence en Enseignement John W. Durnford à un professeur de la Faculté de Droit. Des copies du Formulaire de Nomination et de la procédure de nomination sont disponibles sur le babillard à l'extérieur du bureau de l'AÉD et sur Notice Board. La date limite est le vendredi 3 mars 2006 avant 14h00. **S.v.p. notez que présentement, seuls les professeurs qui enseignent les cours de la session d'hiver peuvent être nominés. Ceci INCLUT les professeurs qui enseignent des cours qui durent deux sessions.** Votre VP d'affaires académiques vous encourage à participer.

## NOMINATIONS FOR THE 2005-2006 TEACHING EXCELLENCE AWARD

Every year, the LSA presents one professor at the Faculty with the John W. Durnford Teaching Excellence Award. Copies of the Nomination Form and nomination procedure are available on the bulletin board outside the LSA Office and on Notice Board. The deadline is Friday, March 3, 2006, before 14h00. **Please note that only professors teaching winter courses may be nominated during this nomination period. This INCLUDES professors of full-year courses.** Your VP Academic encourages you to participate.

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